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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,714	09/04/2003	Doyle W. Eakin	RAR471.01	8261

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EXAMINER
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VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/656,714

Applicant(s)

EAKIN, DOYLE W.

Examiner

Andrea M. Valenti

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1 . 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,047,499 to Stans.

Regarding Claim 1, Stans teaches a drainage tray (#10) for draining plant treating fluids from a plant pot (#30) having a drainage hole (#32) in a bottom portion thereof and the base member having a bottom with one or more side walls (#12) extending generally vertically upward from the periphery thereof, said bottom and said one or more side walls forming a reservoir (#16 and #11) in said base member for the collection of the fluids from the plant pot, said reservoir having a generally open top portion, said bottom of said base member having an upwardly facing surface and a downwardly facing surface; a drainage orifice (#43) in said base member, said drainage orifice having an inlet disposed in said reservoir and an outlet disposed outside of said reservoir; and a tubular member (#42) connected to said drainage orifice to receive the fluids from said reservoir through said outlet of said drainage orifice.

Regarding Claims 2 and 13, Stans teaches the upwardly facing surface (Fig. 2 #16) is generally concave to facilitate flow of the fluids in said reservoir to said inlet of said orifice.

Regarding Claim 3, Stans teaches the upwardly facing surface of said bottom has one or more upper supports (#18a) extending generally upwardly from said bottom to support the plant pot a spaced distance above said bottom of said base member.

Regarding Claims 4 and 14, Stans teaches the one or more upper supports comprises a plurality of ribs (Fig. 1 #18a, b, c) in spaced apart relation.

Regarding Claim 5, Stans teaches the ribs are generally inclined downward toward the center of said bottom (Fig. 2 #18a right hand side).

Regarding Claims 6 and 15, Stans inherently teaches the one or more upper supports are sized and configured to substantially allow flow of the fluids in said reservoir to said drainage orifice (#43).

Regarding Claim 7, Stans teaches that the drainage orifice is integral with said base member (#43 when in an assembled state it is integral since integral merely means connected).

Regarding Claims 8 and 16, Stans teaches the drainage orifice is disposed in one or said one or more side walls (Fig. 2 #43 and #12) of said base member, said outlet of said drainage orifice extending outwardly from said base member.

Regarding Claim 9, Stans teaches the drainage orifice is at or substantially near the bottom of said sidewall to fully drain the fluids from said reservoir (Fig. 2 #43).

Regarding Claim 10, Stans teaches the drainage orifice (#43) comprises a connector (Fig. 1 #44 and 47 and Fig. 8c) disposed in said base member, said connector configured to interconnect said reservoir with said tubular (#42) member to drain the fluids from said reservoir.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 12, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,047,499 to Stans in view of U.S. Patent Des. 361,308 to Loran.

Regarding Claim 11, Stans is silent on the downwardly facing surface of said bottom comprises one or more stabilizer members extending generally downward from said bottom of said base member. However, Loran teaches a plant pot drainage tray with stabilizer members on the downwardly facing surface of the tray (Loran Fig. 2 and 5). It would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention with the teachings of Loran since the modification is merely an old and well-known aesthetic modification for enhanced consumer appeal as taught by Loran (Loran page 1 Claim section).

Regarding Claims 12, 17, and 18-20, Stans as modified teaches the one or more stabilizer members comprise at least an inner stabilizer member and an outer stabilizer member, said inner stabilizer member and said outer stabilizer member sized and configured to generally support the center of said bottom higher than the periphery of said bottom (Loran Fig. 2 and 5).

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Japanese Patents JP: 2001112349; 11289874; 04158724; 2001269072.


U.S. Patent Pub: 2003/0009940; 2002/0017058.

U.S. Patent No: 5,782,035; 603,492; 132,808.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4357.

  
Andrea M. Valenti  
Examiner  
Art Unit 3643

27 January 2004

  
Peter M. Poon  
Supervisory Patent Examiner  
Technology Center 3600